

AMENDED IN ASSEMBLY MAY 31, 2011  
AMENDED IN ASSEMBLY MARCH 31, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 506**

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**Introduced by Assembly Member Wieckowski**

February 15, 2011

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An act to amend Section 53760 of, and to add Sections 8860, 53760.3, 53760.5, 53761, 53761.5, 53762, 53762.5, and 53763 to, the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 506, as amended, Wieckowski. Local government: bankruptcy: ~~mediation~~ *neutral evaluation*.

Under existing law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States.

This bill would provide that a local public entity shall not file under federal bankruptcy law unless the local public entity has participated in ~~mediation~~ *a neutral evaluation process* with interested parties, as defined, has received a certificate of good faith participation, and if the ~~mediation~~ *neutral evaluation* results in either an agreement for debt readjustment, or if the ~~mediator~~ *neutral evaluator* certifies in writing that continued ~~mediation~~ *neutral evaluation* will not contribute to a resolution of the parties' dispute, under certain circumstances. The bill would also require the California Debt and Investment Advisory Commission to ~~adopt mediation guidelines~~ *provide technical assistance as a neutral third party as necessary in any neutral evaluation process*, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature hereby finds and declares all of  
2     the following:  
3     (a) The California Constitution and current statutory law provide  
4     for a continuity and interdependence between state and local  
5     government entities. Seeking financial relief through the provisions  
6     of Chapter 9 of federal Bankruptcy Code imposes substantial  
7     administrative costs and expenses on a municipality, potentially  
8     exceeding several million dollars.—~~Filing~~— *In order for a*  
9     *municipality to be a debtor under Chapter 9, the municipality shall*  
10    *make certain showings required by subdivision (c) of Section 109*  
11    *of Title 11 of the United State Code, that include, but are not*  
12    *limited to, establishing that the municipality is insolvent, the*  
13    *municipality desires to effect a plan to adjust its debts, and that the*  
14    *municipality has negotiated in good faith or attempted to negotiate*  
15    *in good faith with its creditors, as specified in that section.*  
16    (b) *Filing* for Chapter 9 can reduce service levels to the  
17    taxpayers and residents of a municipality. In some circumstances,  
18    it can have major short-term and long-term fiscal consequences  
19    for the municipality, the surrounding municipalities, and the state.  
20    Filing for bankruptcy protection under Chapter 9 should be  
21    considered a last resort, to be instituted only after other reasonable  
22    efforts have been made, to avoid a bankruptcy filing or otherwise  
23    appropriately plan for it. It is in the interest of the state, local  
24    governments, and the public that local government entities have  
25    sufficiently sound financial capacity to provide required services  
26    to the public and meet their contractual and other obligations during  
27    any restructuring or financial reorganization process. Furthermore,  
28    it is in the best interest of the public, the state, and local  
29    government entities, the employees, investors, bondholders, and  
30    other interest holders be included in an appropriate restructuring  
31    process and have an adequate understanding of the financial  
32    capacity of local government entities and their obligations, as a  
33    clear understanding of both is necessary for any restructuring or  
34    reorganization process.

35    ~~(b)–~~

(c) The Legislature has an interest in monitoring the conditions under which local entities may seek Chapter 9 protection. The relief provided through the bankruptcy process can affect state and municipal government service levels, debt, and contracts. The Legislature has a strong interest in ensuring adequate disclosure of the conditions under which a municipality may seek Chapter 9 protection and providing a process to make any Chapter 9 filing as efficient as possible.

(e)

(d) To the extent financial relief granted through Chapter 9 can affect debt service payments, the state's investors and bondholders have a direct interest in the Chapter 9 process, particularly prior to filing. So it is important for those parties to be able to participate in a prefiling confidential-~~mediation~~ *neutral evaluation* process that could assist parties in reaching a settlement and avoiding a bankruptcy filing or otherwise lead to a prenegotiated consensual plan of readjustment *as clearly contemplated by subdivision (c) of Section 109 of Title 11 of the United States Code*.

(d)

(e) To the extent financial relief granted through Chapter 9 could affect public employee compensation, employees have a direct interest in the Chapter 9 process, particularly prior to filing. Therefore, it is important for those parties to be able to participate in a prefiling confidential-~~mediation~~ *neutral evaluation* process that could assist parties in reaching a settlement or otherwise lead to a prenegotiated agreement and avoid a Chapter 9 filing.

(e)

(f) The state has established a statewide system of public employee collective bargaining for state and local government employers and employees intended to protect the state's interest in promoting peaceful and harmonious labor relations and preventing work stoppages. Contracts reached through collective bargaining are essential to maintaining labor peace and the uninterrupted delivery of vital public services, and these agreements may be subject to review, amendment or rejection in the event of a Chapter 9 bankruptcy proceeding. However, it is the intent of the Legislature that the rights of workers to collectively bargain shall be fully enforced and respected in the ~~mediation~~ *neutral evaluation* process.

(f)

(g) Currently, 23 states do not permit municipalities to file for bankruptcy. Twenty-seven states permit municipalities to file for bankruptcy, but most states impose standards and guidelines for access to bankruptcy proceedings. California is one of only 10 states that does not restrict or otherwise limit authority of its municipalities to file for bankruptcy. At present, California offers no opportunity for those municipalities that are insolvent to receive state-level, prebankruptcy guidance, oversight, ~~mediation~~ *neutral evaluation*, or assistance. Nor does the state provide a mechanism for exchange of current and projected financial information with public employee representatives, debt and bondholders, and other interested parties in a prebankruptcy setting even if these municipalities are not currently insolvent but concerned about becoming insolvent and unable to pay obligations as these obligations come due. *As a result, there is no process in this state requiring potential Chapter 9 debtors to qualify as Chapter 9 debtors, leaving these cases subject to motions to dismiss on any number of grounds, thus delaying earlier resolution and increasing administrative fees and costs.*

~~(g)~~

(h) State intervention in local affairs should only occur in exceptional circumstances and not without a compelling interest of statewide concern.

~~(h)~~

(i) Given the connection between state allocations and local budgets, the state has a role in assisting municipalities to address potential insolvency with the goal of averting municipality bankruptcy filings where possible and providing a process designed to make the debt restructuring process in or outside of a Chapter 9 bankruptcy as cost effective and efficient as possible for all participants.

~~(i)~~

(j) It is the duty of all state and local elected officials to ensure that governments provide essential services to the communities they are elected to serve, and to respect collective bargaining agreements reached with their employees.

~~(j)~~

(k) California's taxpayers who rely on public safety, senior, recreational, municipal health, library, and other public services as well as those who own and operate businesses in our

1 communities, deserve every reasonable and appropriate effort that  
2 state and local government can make to avoid adverse  
3 consequences of Chapter 9 bankruptcy filings, particularly where  
4 ~~mediation~~ *a neutral evaluation* may lead to out-of-court resolution  
5 of outstanding obligations and disputes or to a preagreed,  
6 prenegotiated plan of readjustment.

7 ~~(k)~~

8 (l) Resolving municipal and state business and financial issues  
9 in a timely, fair and cost-effective manner is an integral part of a  
10 successful government and is in the public interest. It has long  
11 been recognized that alternative dispute resolution proceedings,  
12 like ~~mediation~~ *a neutral evaluation*, offer an economical, discreet,  
13 and expeditious way to resolve potentially devastating situations.

14 ~~(t)~~

15 (m) Through the ~~mediation~~ *neutral evaluation* process, the  
16 ~~mediator neutral evaluator~~, a specially trained, neutral third party  
17 can assist the municipality and its creditors and stakeholders to  
18 fully explore alternatives, while allowing the interested parties to  
19 exchange information in a confidential environment with the  
20 assistance and supervision of a ~~mediator neutral evaluator~~ to  
21 determine whether the municipality's contractual and financial  
22 obligations can be renegotiated on a consensual basis.

23 ~~(m)~~

24 (n) The California Debt and Investment Advisory ~~Commission~~  
25 ~~is the appropriate body to administer the mediation process in~~  
26 ~~conjunction with an appropriate alternative dispute resolution~~  
27 ~~program within the state. As a result of the commission's~~  
28 *Commission's* current statutory duties to collect municipal finance  
29 data, conduct research, administer educational seminars, and  
30 provide information and technical assistance on behalf of  
31 municipalities, and given the commission's membership, it is  
32 appropriate that the commission be able to ~~convene mediations,~~  
33 ~~with the assistance of a neutral third-party nongovernmental entity~~  
34 ~~that will administer the mediation and train the mediators, provide~~  
35 *technical assistance as a neutral party* at the request of a  
36 municipality contemplating restructuring or a Chapter 9 filing or  
37 by a stakeholder concerned about the financial condition of the  
38 municipality. ~~It is the intent of the Legislature that the commission~~  
39 ~~may consult with the Judicial Arbitration and Mediation Services,~~  
40 ~~the Executive Office for U.S. Trustees, retired bankruptcy judges,~~

1 or other appropriate entities in establishing and administering the  
2 program.

3 SEC. 2. Section 8860 is added to the Government Code, to  
4 read:

5 ~~8860. The commission shall adopt mediation guidelines for~~  
6 ~~mediation relating to local public entity bankruptcy conducted~~  
7 ~~pursuant to Article 5 (commencing with Section 53760) of Chapter~~  
8 ~~4 of Part 1 of Division 2 of Title 5. The commission may consult~~  
9 ~~with the Judicial Arbitration and Mediation Services, the Executive~~  
10 ~~Office for U.S. Trustees, the retired bankruptcy judges, or other~~  
11 ~~appropriate entities in adopting these guidelines.~~

12 *8860. The commission shall, when requested by a local public*  
13 *agency or a neutral evaluator, serve as a neutral third party to*  
14 *provide technical assistance in any neutral evaluation process*  
15 *conducted pursuant to Article 5 (commencing with Section 53760)*  
16 *of Chapter 4 of Part 1 of Division 2 of Title 5.*

17 SEC. 3. Section 53760 of the Government Code is amended  
18 to read:

19 53760. (a) Except as otherwise provided by statute, a local  
20 public entity in this state shall not file a petition and exercise  
21 powers pursuant to applicable federal bankruptcy law unless the  
22 local public entity has participated in ~~mediation~~ *the neutral*  
23 *evaluation process* as provided in Section 8860 and received a  
24 good faith certification from the ~~mediator~~ *neutral evaluator*, and  
25 if one of the following applies:

26 (1) The local public entity has reached an out-of-court agreement  
27 with all interested parties regarding a plan of adjustment pursuant  
28 to subdivision (b) of Section 53762.5.

29 (2) The local public entity and the interested parties were unable  
30 to reach an out-of-court agreement and the ~~mediator~~ *neutral*  
31 *evaluator* has certified in writing that the parties have participated  
32 in ~~mediation~~ *the neutral evaluation process* in good faith, pursuant  
33 to subdivision (d) of Section 53762.5.

34 (3) The local public entity initiated the ~~mediation proceeding~~  
35 *neutral evaluation process* and interested parties did not participate  
36 in the ~~mediation~~ *neutral evaluation process*, pursuant to subdivision  
37 (e) of Section 53762.5 *and has disclosed documents arising from*  
38 *the process required by Section 8860.*

39 (b) A local public entity shall not file a petition and exercise  
40 powers pursuant to subdivision (a) if ~~either of the following occur:~~

1     ~~(1) The mediator determines that solvency or effective debt~~  
2 ~~restructuring can be achieved through settlement with all interested~~  
3 ~~parties and that a settlement can be reached through further~~  
4 ~~mediation.~~

5     ~~(2) The mediator~~ *the neutral evaluator* determines that a local  
6 entity has failed to participate in *the neutral evaluation process in*  
7 ~~good faith mediation~~. Failure to participate in good faith includes,  
8 but is not limited to, the failure to provide accurate and essential  
9 financial information, the failure to attempt to reach settlement  
10 with all interested parties to avert bankruptcy, or evidence of  
11 manipulation to delay and obstruct a timely agreement.

12     (c) As used in this ~~section~~ *article*, “local public entity” means  
13 any county, city, district, public authority, public agency, or other  
14 entity, without limitation, that is a “municipality,” as defined in  
15 paragraph (40) of Section 101 of Title 11 of the United States Code  
16 (bankruptcy), or that qualifies as a debtor under any other federal  
17 bankruptcy law applicable to local public entities.

18     SEC. 4. *Section 53760.3 is added to the Government Code, to*  
19 *read:*

20     53760.3. (a) *A local public entity may initiate the neutral*  
21 *evaluation process pursuant to this article. A neutral evaluator*  
22 *shall oversee the neutral evaluation process, and shall facilitate*  
23 *all of the requirements set forth in subdivision (b).*

24     (b) (1) *The local public entity shall make complete disclosure*  
25 *of all documentation necessary to clearly demonstrate whether*  
26 *the local public entity is solvent, including, but not limited to,*  
27 *financial reports, expenditures, assets, and any other relevant*  
28 *documentation.*

29     (2) *The local public entity and any interested party shall make*  
30 *present information to each other, which shall include, but is not*  
31 *limited to, the status of funds of the local public agency that clearly*  
32 *distinguishes between general funds and special funds.*

33     (3) *The local public entity and any interested party shall present*  
34 *its proposed plan of readjustment.*

35     (4) *The local public entity and any interested party shall*  
36 *negotiate in good faith.*

37     (c) *The neutral evaluation process shall be confidential, and is*  
38 *subject to Section 703.5 and Chapter 2 (commencing with Section*  
39 *1115) of Division 9 of the Evidence Code.*

1     ~~SEC. 4.~~

2     ~~SEC. 5.~~ Section 53760.5 is added to the Government Code, to  
3 read:

4     53760.5. (a) A local public entity may initiate ~~a mediation~~ *the*  
5 *neutral evaluation process* when the local public entity is or likely  
6 will become unable to meet its financial obligations when those  
7 obligations are due or become due and owing.

8     (b) ~~Mediation~~ *A neutral evaluation* shall be conducted through  
9 an alternative dispute resolution program within the state and in  
10 accordance with ~~mediation guidelines adopted by the commission~~  
11 *Section 8860.*

12     (c) The role of the ~~mediator~~ *neutral evaluator* shall be to assist  
13 all interested parties in reaching an equitable settlement to avert a  
14 Chapter 9 filing. The ~~mediator~~ *neutral evaluator* shall also assist  
15 the parties in identifying the anticipated legal costs associated with  
16 a Chapter 9 filing relative to the local public entity's budget  
17 shortfall. The ~~mediator~~ *neutral evaluator* may consult with ~~the~~  
18 ~~Judicial Arbitration and Mediation Services~~ *alternate dispute*  
19 *resolution service providers, the California Debt and Investment*  
20 *Advisory Commission, the Executive Office for U.S. Trustees,*  
21 *retired bankruptcy judges, or other appropriate entities in*  
22 *establishing and administering the* ~~mediation~~ *neutral evaluation*  
23 *regarding issues that are not confidential.*

24     ~~SEC. 5.~~

25     ~~SEC. 6.~~ Section 53761 is added to the Government Code, to  
26 read:

27     53761. (a) A ~~mediator~~ *neutral evaluator* shall meet all of the  
28 following qualifications:

29     (1) At least 10 years of high level business or legal practice  
30 involving bankruptcy.

31     (2) Experience *and training* in conflict resolution *and alternative*  
32 *dispute resolution.*

33     (3) Completion of a mandatory training program in municipal  
34 organization, municipal debt restructuring, Chapter 9 bankruptcy,  
35 public finance, taxation, California constitutional law, California  
36 labor law, federal labor law, and municipal finance dispute  
37 resolution, provided through an alternative dispute resolution  
38 program within the state.

39     (b) The ~~mediator~~ *neutral evaluator* shall be impartial, objective,  
40 independent, and free from prejudice. The ~~mediator~~ *neutral*



1 *evaluator* shall not act with partiality or prejudice based on any  
2 participant's personal characteristics, background, values or beliefs,  
3 or performance during ~~mediation~~ *the neutral evaluation process*.

4 (c) The ~~mediator~~ *neutral evaluator* shall avoid a conflict of  
5 interest or the appearance of a conflict of interest during ~~and after~~  
6 ~~a mediation~~ *the neutral evaluation process*. The ~~mediator~~ *neutral*  
7 *evaluator* shall make a reasonable inquiry to determine whether  
8 there are any facts that a reasonable individual would consider  
9 likely to create a potential or actual conflict of interest. Prior to  
10 ~~mediation, the mediator~~ *the neutral evaluation process, the neutral*  
11 *evaluator* shall not establish another relationship with any of the  
12 parties in a manner that would raise questions about the integrity  
13 of the ~~mediation~~ *neutral evaluation*, except that the ~~mediator~~  
14 *neutral evaluator* may conduct further ~~mediations~~ *neutral*  
15 *evaluations* regarding other potential local public entities that may  
16 involve some of the same or similar constituents to a prior  
17 mediation.

18 (d) The ~~mediator~~ *neutral evaluator* shall conduct the ~~mediation~~  
19 *neutral evaluation process* in a manner that promotes voluntary,  
20 uncoerced decisionmaking in which each party makes free and  
21 informed choices regarding the process and outcome.

22 (e) The ~~mediator~~ *neutral evaluator* shall not impose a settlement  
23 on the parties. The ~~mediator~~ *neutral evaluator* shall use his or her  
24 best efforts to assist the parties to reach a satisfactory resolution  
25 of their disputes. Subject to the discretion of the ~~mediator, the~~  
26 ~~mediator~~ *neutral evaluator, the neutral evaluator* may make oral  
27 or written recommendations for settlement or plan of readjustment  
28 to a party privately or, ~~if the parties agree,~~ to all parties jointly.

29 (f) The ~~mediator~~ *neutral evaluator* has a duty to instruct and  
30 inform the local public entity and all parties of the limitations of  
31 Chapter 9 relative to other chapters of the bankruptcy codes. This  
32 instruction shall highlight the limited authority of United States  
33 bankruptcy judges in Chapter 9 such as the lack of flexibility  
34 available to judges to reduce or cram down debt repayments and  
35 similar efforts not available to reorganize the operations of the  
36 city, that may be available to a corporate entity.

37 (g) The ~~mediator shall~~ *neutral evaluator may* request from the  
38 parties documentation and other information that the ~~mediator~~  
39 *neutral evaluator* believes may be helpful in assisting the parties  
40 to address the obligations between them.

1 (h) In the event a complete settlement of all or some issues in  
2 dispute is not achieved within the scheduled ~~mediation~~ *neutral*  
3 *evaluation* session or sessions, the ~~mediator~~ *neutral evaluator* may,  
4 at the ~~mediator's~~ *neutral evaluator's* discretion, continue to  
5 communicate with the parties in an ongoing effort to facilitate a  
6 complete settlement in order to avoid a Chapter 9 filing.

7 (i) The ~~mediator~~ *neutral evaluator* shall provide ~~council~~ *counsel*  
8 and guidance to all parties and shall not be a legal representative  
9 of any party and shall not have a fiduciary duty to any party.

10 (j) In the event of a settlement with all interested parties, the  
11 ~~mediator~~ *neutral evaluator* may assist the parties in negotiating a  
12 prepetition, preagreed plan of readjustment in connection with a  
13 potential Chapter 9 filing.

14 (k) The ~~mediator~~ *neutral evaluator* shall maintain the  
15 confidentiality of all the information obtained by the ~~mediator~~  
16 *neutral evaluator* in ~~mediation~~ *the neutral evaluation process*,  
17 unless otherwise agreed to by the parties. *The neutral evaluation*  
18 *shall be subject to Chapter 2 (commencing with Section 1115) of*  
19 *Division 9 of the Evidence Code.*

20 ~~SEC. 6.~~

21 *SEC. 7.* Section 53761.5 is added to the Government Code, to  
22 read:

23 53761.5. The parties shall exchange all documents including  
24 current financial information and projections addressing future  
25 financial obligations affecting the local public entity or that may  
26 hinder a resolution of the issues before the ~~mediator~~. The ~~mediator~~  
27 *neutral evaluator*. *The neutral evaluator* may request the  
28 submission or exchange of memoranda on issues, including the  
29 underlying interests, and the history of the parties' prior  
30 negotiations. Information that a party wishes to keep confidential  
31 may be sent to the ~~mediator~~ *neutral evaluator* in a separate  
32 communication clearly marked "CONFIDENTIAL."

33 ~~SEC. 7.~~

34 *SEC. 8.* Section 53762 is added to the Government Code, to  
35 read:

36 53762. (a) Each interested party shall provide at least one  
37 representative of each party to attend all ~~mediation~~ *neutral*  
38 *evaluation* conferences. Each party's representative shall have  
39 authority to settle and resolve disputes or shall be in a position to

1 present any proposed settlement or plan of readjustment to the  
2 governing body or membership for approval and implementation.

3 (b) The local public entity shall provide a local public entity  
4 representative who shall represent the local public entity's interest  
5 in the ~~mediation~~ *neutral evaluation* and who shall *be in a position*  
6 *to* propose any settlement or plan of readjustment to the governing  
7 body of the local public entity.

8 (c) An interested party may be represented by legal counsel,  
9 but must inform all parties of the representation.

10 ~~(d) The parties shall participate in the mediation in good faith.~~  
11 ~~If the mediator determines that a representative of one or more of~~  
12 ~~the parties is not participating in good faith, the mediator may~~  
13 ~~request that a substitute representative or representatives be~~  
14 ~~appointed.~~

15 (e)  
16 (d) The parties shall maintain the confidentiality of the ~~mediation~~  
17 *neutral evaluation process* and shall not disclose statements made,  
18 information disclosed, or documents prepared or produced, during  
19 the ~~mediation~~ *neutral evaluation process* process, as specified in  
20 Sections 1119, 1120, 1121, and 1122 of the Evidence Code, unless  
21 all parties consent in writing to the disclosure. *This subdivision*  
22 *does not apply to documents that were not confidential prior to*  
23 *the start of the neutral evaluation process.*

24 ~~SEC. 8.~~

25 SEC. 9. Section 53762.5 is added to the Government Code, to  
26 read:

27 53762.5. ~~Mediation~~ *The neutral evaluation process* shall end  
28 if any of the following occur:

29 (a) The parties execute an agreement of settlement.

30 (b) The parties reach an agreement or proposed plan of  
31 readjustment that requires the approval of a bankruptcy judge.

32 (c) The ~~mediator~~ *neutral evaluator* certifies in writing that one  
33 or more of the parties has not participated in good faith, that no  
34 resolution has been reached, and that further efforts at ~~mediation~~  
35 *the neutral evaluation process* would not contribute to a resolution  
36 of the parties' dispute.

37 (d) The ~~mediator~~ *neutral evaluator* certifies in writing that the  
38 parties have participated in good faith but the parties have reached  
39 an impasse and further efforts at ~~mediation~~ *the neutral evaluation*  
40 *process* would not contribute to a resolution of disputes.

(e) The ~~mediator~~ *neutral evaluator* certifies in writing that a ~~mediation neutral evaluation~~ was initiated by the local public entity but that no interested parties participated.

~~SEC. 9.~~

*SEC. 10.* Section 53763 is added to the Government Code, to read:

53763. As used in this article the following terms have the following meanings:

(a) “Chapter 9” means Chapter 9 (commencing with Section 901) of Title 11 of the United States Code.

(b) “Claim” means either of the following:

(1) A right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(2) A right to an equitable remedy for breach of performance if the breach gives rise to a right to payment, whether or not the right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

(c) “Collective bargaining” means the process by which workers exercise their right to negotiate with an entity’s or organization’s management in a good-faith process to establish employee compensation, working conditions, and other matters of mutual interest.

(d) “Collective bargaining agreement” means a written, legally enforceable contract for a specified period, between the management of an entity or organization and its employees represented by a recognized union. It sets down and defines conditions of employment, including, but not limited to, wages, working hours and conditions, overtime payments, holidays, vacations, health benefits, retirement benefits, and procedures for dispute resolution.

~~(e) “Commission” means the California Debt and Investment Advisory Commission.~~

~~(f)~~

(e) “Creditor” means either of the following:

(1) An entity that has a claim against a municipality that arose at the time of or before the commencement of the ~~mediation neutral~~

1 *evaluation* process and whose claim represents at least 5 percent  
2 of the municipality's general fund obligations.

3 (2) An entity that may have a claim against the municipality  
4 arising out of rejection of an executory contract or unexpired lease  
5 in a Chapter 9 case and whose claim represents at least 5 percent  
6 the municipality's general fund obligations.

7 ~~(g)~~

8 (f) "Debtor" means a local public entity that may file for  
9 bankruptcy under Chapter 9.

10 ~~(h)~~

11 (g) "Good faith" means participation by a party in the ~~mediation~~  
12 *neutral evaluation* process with the intent to negotiate toward a  
13 resolution of the issues that are the subject of the ~~mediation~~ *neutral*  
14 *evaluation process*, including, but not limited to, the timely  
15 provision of complete and accurate information to provide the  
16 relevant parties through ~~mediation~~ *the neutral evaluation process*  
17 with sufficient information, in a confidential manner, to negotiate  
18 the readjustment of the municipality's debt.

19 ~~(i)~~

20 (h) "Indenture trustee" means a trustee under a mortgage, deed  
21 of trust, or indenture, under which there is an outstanding security  
22 other than a voting-trust certificate, constituting a claim against  
23 the municipality.

24 ~~(j)~~

25 (i) "Interested party" means a trustee, a committee of creditors,  
26 a creditor, an indenture trustee, a pension fund, a bondholder, or  
27 a union who under its collective bargaining agreements has  
28 standing to initiate contract or debt restructuring negotiations with  
29 the municipality.

30 ~~(k)~~

31 (j) "Local public entity" means any county, city, district, public  
32 authority, public agency, or other entity, without limitation, that  
33 is a municipality as defined in paragraph (4) of Section 101 of  
34 Title 11 of the United States Code (bankruptcy), or that qualifies  
35 as a debtor under any other federal bankruptcy law applicable to  
36 local public entities.

37 ~~(l)~~

38 (k) "Local public entity representative" means the person or  
39 persons designated by the local public agency with authority to

1 make recommendations and to attend the ~~mediation~~ *neutral*  
2 *evaluation* on behalf of the governing body of the municipality.

3 ~~SEC. 10.~~

4 *SEC. 11.* The Legislature finds and declares that Sections 6  
5 and 7 of this act, which add Sections 53761.5 and 53762.5 to the  
6 Government Code, impose a limitation on the public's right of  
7 access to the meetings of public bodies or the writings of public  
8 officials and agencies within the meaning of Section 3 of Article  
9 I of the California Constitution. Pursuant to that constitutional  
10 provision, the Legislature makes the following findings to  
11 demonstrate the interest protected by this limitation and the need  
12 for protecting that interest:

13 To facilitate the process to avoid municipal bankruptcy, it is  
14 necessary to provide for secure documents.